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DOCKET NO. D-2008-023-2

DELAWARE RIVER BASIN COMMISSION

Discharge to a Tributary of Special Protection Waters

**Tuthill Corporation d/b/a Blue Mountain Ski Area
Wastewater Treatment Plant
Lower Towamensing Township, Carbon County, Pennsylvania**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by Keystone Consulting Engineers, Inc. (Keystone) on behalf of Tuthill Corporation d/b/a Blue Mountain Ski Area (BMSA or docket holder) on October 13, 2011 (Application), for review of an existing wastewater treatment plant (WWTP) discharge. National Pollutant Discharge Elimination System (NPDES) Permit No. PA0063428 for this project was approved by the Pennsylvania Department of Environmental protection (PADEP) on February 1, 2011.

The Application was reviewed for approval under Section 3.8 of the *Delaware River Basin Compact*. The Carbon County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on September 12, 2012.

A. DESCRIPTION

1. **Purpose.** The purpose of this docket is to renew approval of the existing 0.06 million gallons per day (mgd) BMSA WWTP and its related discharge.
2. **Location.** The WWTP and its related discharge are located in Lower Towamensing Township, Carbon County, Pennsylvania. The WWTP will continue to discharge treated effluent to Aquashicola Creek at River Mile 183.66 – 36.32 – 5.73 (Delaware River – Lehigh River – Aquashicola Creek) via Outfall No. 001, in the drainage area to the Lower Delaware Special Protection Waters (SPW) area as follows:

OUTFALL NO.	LATITUDE (N)	LONGITUDE (W)
001	40° 49' 00"	75° 31' 47"

3. **Area Served.** The docket holder's WWTP will continue to receive wastewater flows from the existing BMSA facility. For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

4. **Physical Features.**

a. **Design Criteria.** The docket holder operates an existing 0.06 mgd WWTP..

b. **Facilities.** The existing wastewater treatment system is an extended aeration, activated sludge system contained in factory manufactured, prefabricated steel tanks with all baffles, diffusers, and equipment preinstalled. The facilities consist of a comminutor/bar screen, surge tank, three (3) pre-treated aeration tanks, three (3) clarifiers, a 12,000 gallon aerated sludge storage tank, a 1,077 gallon capacity chlorine contact tank, and one (1) post-treated effluent tank that helps to regulate flow.

The docket holder's wastewater treatment facility discharges to waters classified as SPW and is required to have available emergency power. The existing WWTP has a generator installed capable of providing emergency power. (SPW)

The docket holder's wastewater treatment facility is not staffed 24 hours per day, and shall have a remote alarm system that continuously monitors plant operations. The existing WWTP has a remote alarm system installed that continuously monitors plant operations. (SPW)

The docket holder's existing wastewater treatment facility has prepared and implemented an emergency management plan (EMP) in accordance with Commission requirements. (SPW)

The project facilities aren't located in the 100-year floodplain.

Wasted sludge will continue to be hauled off-site by a licensed hauler for disposal at a (State-approved) facility.

c. **Water withdrawals.** The potable water supply in the project service area is supplied by an on-site well that does not meet the withdrawal criteria requiring a DRBC docket.

d. **NPDES Permit / DRBC Docket.** NPDES Permit No. PA0063428 was approved by the PADEP on February 1, 2011 and includes final effluent limitations for the project discharge of 0.06 mgd to surface waters classified by the PADEP as a trout stocking/migratory fishery (TSF/MF). The following average monthly effluent limits are among those listed in the NPDES Permit and meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE A-1: DRBC Parameters Included in NPDES Permit

OUTFALL 001 (WWTP)		
PARAMETER	LIMIT	MONITORING
pH (Standard Units)	6 to 9 at all times	As required by NPDES Permit
Total Suspended Solids	30 mg/l	As required by NPDES Permit
CBOD (5-Day at 20° C)	25 mg/l (85% minimum removal*)	As required by NPDES Permit
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200 colonies per 100 ml as a geo. avg. 2000 colonies per 100 ml as a geo. avg.	As required by NPDES Permit

* DRBC Requirement

EFFLUENT TABLE A-2: DRBC Parameters Not Included in NPDES Permit

OUTFALL 001 (WWTP)		
PARAMETER	LIMIT	MONITORING
Total Dissolved Solids*	1,000 mg/l *	Quarterly **
Dissolved Oxygen*	Monitor & Report *	Monthly *
Ammonia Nitrogen*	Monitor & Report *	Monthly *
Phosphorus*	Monitor & Report *	Monthly *
Nitrate – N*	Monitor & Report *	Monthly *
Total Nitrogen*	Monitor & Report *	Monthly *

* DRBC Requirement

** See DECISION Condition II.r.

- e. **Cost.** There are no construction costs associated with this renewal.

B. FINDINGS

The purpose of this docket is to renew approval of the existing 0.06 mgd BMSA WWTP and its related discharge.

On July 16, 2008, the DRBC approved amendments to its *Water Quality Regulations (WQR)* that provide increased protection for waters that the Commission classifies as SPW. The portion of the Delaware River and its tributaries within the boundary of the Lower Delaware River Management Plan Area was approved for SPW designation.

Article 3.10.3A.2.e.1). and 2). of the Commission's *WQR* states that projects subject to review under Section 3.8 of the Compact that are located in the drainage area of SPW must submit for approval a Non-Point Source Pollution Control Plan (NPSPCP) that controls the new or increased non-point source loads generated within the portion of the docket holder's service area which is also located within the drainage area of SPW. The service area of the docket holder is located within in the drainage area to the SPW. Since this project does not entail additional construction and expansion of facilities/service area (i.e., there aren't any new or increased non-point source loads associated with this approval), the NPSPCP requirement is not

applicable at this time. Accordingly, DECISION Condition II.n. has been included in this docket.

The Lehigh River Water Quality Model (LR-WQM) was developed in late 2009, after the approval of the previous expansion from 0.025 mgd (approved in Docket No. D-2008-23-1 on March 11, 2009). The BMSA WWTP was not included in the model, but should have been. TABLE B-1 contains the grandfathered loads that have been established for the BSMA WWTP and will be included in future versions of the LR-WQM.

Table B-1: Grandfathered Loads

	TSS (lbs/day)	Phosphorous (lbs/day)	Ammonia – N (lbs/day)	TN (lbs/day)	Nitrate as N (lbs/day)
May-Sept*	0.161	***	***	***	***
Oct-April**	0.250	***	***	***	***

* Loads are associated with an average flow of 2,663 gpd

** Loads are associated with an average flow of 9,327 gpd

*** Insufficient data exists to establish a load at this time, monitoring data or that from 2000-2004 will be used during the renewal of this docket to establish these loads

The docket holder has not provided Commission staff with effluent data from the years 2000-2004. As such, the grandfathered loads found in Table B-1 were developed from data supplied to the Commission as a result of monitoring from the last docket cycle. The docket holder was required to monitor for the SPW parameters in the table, but failed to do so. The Commission's Compliance Section is currently working on a summary of the monitoring violations and issuance of this docket does not prohibit the Commission from seeking penalties for past violations (See DECISION Condition II.s.).

The docket holder has expressed an interest in performing substantial alterations or additions to the existing WWTP that would result in an expansion to 0.3 mgd in the future. This docket does not approve that expansion and an application must be submitted to the Commission for review and approval prior to construction of said expansion. Prior to substantial alterations or additions being performed on the BMSA WWTP in the future, a no measurable change (NMC) to existing water quality (EWQ) analysis must be performed utilizing the LR-WQM and effluent limits will need to be established. Monitoring data from 2000-2004 or recent data that spans at least 3 years of monitoring is required prior to any evaluation being performed to ensure that the proper equal effluent concentrations are used for the incremental load that the docket holder may be granted. As such, Commission staff recommend the docket holder request a copy of these limits prior to commencement of design of the expanded WWTP and supply the appropriate data sooner rather than later.

At the project site, the Aquashicola Creek has an estimated seven-day low flow with a recurrence interval of ten years of 5.5 mgd (8.5 cfs). The ratio of this low flow to the design wastewater discharge from the 0.06 mgd WWTP is 91.6 to 1.

The nearest surface water intake of record for public water supply downstream of the project discharge is 4 miles downstream on the Aquashicola Creek operated by Palmerton Municipal Water Authority (PMWA). DRBC Docket No. D-90-17 CP-1 was approved on October 24, 1990 for the withdrawal.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the NPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

C. DECISION

I. Effective on the approval date for Docket No. D-2008-023-2 below, Docket No. D-2008-23-1 is terminated and replaced by Docket No. D-2008-023-2.

II. The project and appurtenant facilities as described in Section A "Physical Features" of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the PADEP in its NPDES Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR*.

d. The docket holder shall comply with the requirements contained in the Effluent Tables in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

e. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a

docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

f. If at any time the receiving treatment plant proves unable to produce an effluent that is consistent with the requirements of this docket approval, no further connections shall be permitted until the deficiency is remedied.

g. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

h. The discharge of wastewater shall not increase the ambient temperatures of the receiving waters by more than 5°F, nor shall such discharge result in stream temperatures exceeding 87°F.

i. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder's Application to the extent consistent with all other conditions of this DECISION Section.

j. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.

k. No sewer service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

l. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

m. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

n. Prior to allowing connections from any new service areas or any new developments, the docket holder shall either submit and have approved by the Executive Director of the DRBC a NPSPCP in accordance with Section 3.10.3.A.2.e, or receive written confirmation from the Executive Director of the DRBC that the new service area is in compliance with a DRBC approved NPSPCP.

o. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in

the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

p. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

q. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

r. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

s. Nothing in this docket constitutes a defense to any penalty action for past conduct of the docket holder or ongoing activity not authorized by this approval. In particular, renewal of this docket does not resolve violations – whether in the past or continuing – of provisions of the Delaware River Basin Compact (“Compact”) or any rule, regulation, order or approval duly issued by the Commission or the Executive Director pursuant to the Compact. The Commission reserves its right to take appropriate enforcement action against the docket holder, including but not limited to recovery of financial penalties consistent with Section 14.17 of the Compact, for any and all such prior or continuing violations.

t. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

BY THE COMMISSION

DATE APPROVED:

EXPIRATION DATE: January 31, 2016